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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,530	06/29/2001	Craig Weldon	051481-5009	3012
9629	7590	10/15/2004	EXAMINER	
MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004			MCCALL, ERIC SCOTT	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/893,530	Applicant(s) WELDON, CRAIG	
	Examiner Eric S. McCall	Art Unit 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-18 is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

**DIAGNOSTIC APPARATUS AND METHOD FOR AN
EVAPORATIVE CONTROL SYSTEM INCLUDING AN
INTEGRATED PRESSURE MANAGEMENT APPARATUS**

NON-FINAL OFFICE ACTION

In response to the Applicant's amendment dated July 23, 2004.

EXAMINER OF RECORD

The Applicant is notified that the Examiner of record has been changed in this application. The new Examiner of record is Eric McCall. The corresponding contact information is provided at the end of this office action.

CLAIMS

Based on the Applicant's amendments and arguments, all of the objections and rejections set forth in the previous office action of March 23, 2004 have been overcome. However, the following now applies.

35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Chirco et al. (5,644,072).

With respect to claim 1, Chirco et al. teach a diagnostic apparatus for a fuel system supplying fuel to an internal combustion engine comprising:

a pressure source (94);

a first fitting (42) adapted to be occluded by the removable cap (212), the first fitting being in fluid communication with the pressure source (fig. 1);

a second fitting (44) adapted to sealingly engage the filler (209), the second fitting being in fluid communication with the pressure source and with the first fitting (fig. 1);

an orifice (50) being in fluid communication with the pressure source, with the first fitting, and with the second fitting (fig. 1); and

a first valve (98) controlling the fluid communication with the orifice.

Note: The Examiner points out that preamble of claim 1 has not been given any patentable weight because the body of claim 1 does not rely upon the preamble thereof for completeness.

With respect to claim 2, Chirco et al. teach the claimed subject matter thereof (see 100 of fig. 11).

With respect to claims 3 and 4, the pressure gauge (100) of Chirco et al. meets the claimed subject matter thereof (col. 7, lines 22-25).

With respect to claim 5, the combination of elements 253, 254, and 258 in fig. 16 of Chirco et al. is interpreted as suggesting a second valve as claimed.

With respect to claim 6, Chirco et al. teach the first fitting (42) comprises a first one of a male member (42) and a female member (212), the second fitting (44) comprises a second one of the male (72) and female members (209), and the male and female members are sized for mating engagement with respect to one another.

With respect to claim 7, Chirco et al. teach the pressure source (94) being an air compressor (col. 7, lines 9-12) which meets the “one of” electromechanical pump as claimed.

Response to Arguments

The Applicant's arguments, along with the corresponding amendments, have been considered and have been found to be persuasive. Accordingly, all of the claim objections and rejections as set forth in the previous office action have been withdrawn. However, since the above rejection itself was not the result of any amendment by the Applicant, this action is not made final.

Allowable Subject Matter

As indicated previously, claims 8-18 have been found to be allowable over the prior art. Claim 8 (and thus claims 9-18) has been found to allowable over the prior art because the prior art fails to teach or suggest a switch providing a signal indicating displacement of the pressure operable device in response to negative pressure at a predetermined pressure level in the charcoal canister wherein the pressure source is operated to draw a vacuum relative to ambient pressure and the signal provided by the switch is detected.

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RELEVANT ART


The Applicant's attention is directed to the enclosed "PTO-892" form for the prior art made of record and not relied upon but considered pertinent to the state of the art of the Applicant's disclosure.

CONCLUSION

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Eric S. McCall
Primary Examiner
Art Unit 2855
Oct. 13, 2004